THE MYSORE MATERNITY BENEFIT ACT, 1937.

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MYSORE ACT No. III OF 1937.

THE MYSORE MATERNITY BENEFIT ACT, 1937.

(AS AMENDED BY ACTS No. XXXI OF 1942, XXXII OF 1952 AND 23 OF 1954.)

(Received the assent of His Highness the Maharaja on the fourth day of February 1937.)

An Act to regulate the Employment of women in factories sometime before and sometime after confinement and to provide for the payment of Maternity Benefit to them.

WHEREAS it is expedient to regulate the employment of women in factories sometime before and sometime after confinement and to provide for the payment of maternity benefit to them in the manner hereinafter provided; it is hereby enacted as follows:—

Short title.

1. This Act may be called the Mysore Maternity Benefit Act, 1937.

Extent and operation.

2. [1][(1) It extends to the whole of the State of Mysore.]

(2) It shall come into operation on the first day of April 1937.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "Employer" includes an occupier of a factory as defined in the [1][Factories Act, 1948, (Central Act LXIII of 1948)], and the manager of a factory.

(*b*) The expressions "factory," "Inspector of Factories" and "Worker" shall have the same meanings as are respectively assigned to them under the [1][Factories Act, 1948, (Central Act LXIII of 1948).]

(*c*) "Maternity benefit" means the amount of money payable under the provisions of this Act to a woman worker in a factory.

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1. Substituted by Act 23 of 1954.

(*d*) "Wages" includes the money value of any earned grain concession, and any money paid to cover high cost of living but does not include a bonus given for regular attendance, or any deduction or payment made on account of fines.

Employment of or work by women in factories prohibited during certain period.

4. After this Act comes into operation,

(1) no employer shall knowingly employ a woman in any factory during the four weeks immediately following the day of her delivery ; and

(2) no woman shall work in any factory during the four weeks immediately following the day of her delivery.

Right to payment of maternity benefit.

5. (1) Subject to the provisions of this Act every woman employed in a factory shall be entitled to the payment of maternity benefit at the rate of her average daily wage calculated to the nearest quarter of an anna on the total wages earned during a period of three months immediately preceding the date on which she gives notice under sub-section (1) of section 6 or at the rate of eight annas a day, [1][whichever is more,] for the actual days of her absence for the period immediately preceding her confinement and for the four weeks immediately following her confinement as mentioned in sub-section (2) :

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the factory of the employer from whom she claims maternity benefit for a period of not less than nine months immediately preceding the date on which she gives notice under sub-section (1) of section 6.

(2) The maximum period for which any woman shall be entitled to the payment of maternity benefit shall be eight weeks, that is to say, four weeks up to and including the day of her delivery and four weeks immediately following that day. If a woman dies during this period the maternity benefit shall be payable only for the days up to and including the day of her death.

Procedure regarding payment of maternity benefit.

6. (1) Any woman employed in a factory and entitled to maternity benefit under the provisions of this

1. Substituted by Act XXXII of 1952.

Act, who is pregnant may, on any day, give notice in writing to her employer stating that she expects to be confined within one month next following, that her maternity benefit may be paid to her, and that she will not work in any employment during the period for which she receives maternity benefit.

(2) The employer shall thereupon permit such woman to absent herself from the factory from the following day until four weeks after the day of her delivery.

(3) Maternity benefit shall be paid by the employer to the woman entitled thereto after taking her wishes into consideration in any one of the following three ways, namely :—

(*i*) for four weeks—within forty-eight hours of the production of a certificate signed by a registered medical practitioner certifying that the woman is expected to be confined within one month next following, and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (2) of section 5—within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child ; or

(*ii*) for the period up to and including the day of delivery—within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child ; and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (2) of section 5—punctually four weeks after the production of such certified extract from a birth register ; or

(*iii*) for the entire period for which the woman is entitled to maternity benefit under sub-section (2) of section 5—within forty-eight hours of the production, within six weeks of her delivery, of a certified extract from a birth register stating that she has given birth to a child :

Provided that no woman shall be entitled to any maternity benefit or any part thereof, the payment of which is dependent upon the production of a certified

extract from a birth register under the provisions of this sub-section unless such extract has been produced within six months of the day of her delivery.

Payment of maternity benefit in case of a woman's death.

7. If a woman entitled to maternity benefit under this Act dies during the period for which she is entitled to maternity benefit, the employer shall pay the amount of maternity benefit due, if the newly-born child survives her, to the person who undertakes the care of the child and if the child does not survive her to her legal representative.

No notice of dismissal to be given to a woman during period of maternity benefit.

8. (1) When a woman absents herself from work in accordance with the provisions of this Act, it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

(2) (a) No notice of dismissal given without sufficient cause by an employer to a woman worker within a period of three months before her confinement shall have the effect of depriving her of any maternity benefit to which but for such notice she would have been, or would on or before the date of her confinement have become, entitled under this Act.

(*b*) If any question arises as to whether any notice of dismissal given under clause (*a*) was or was not given for sufficient cause, it shall be referred to the Inspector of Factories whose decision shall be final.

(*c*) The provisions of this sub-section shall not apply to notices falling under sub-section (1).

Forfeiture of maternity benefit.

9. If a woman works in any factory after she has been permitted by her employer to absent herself under the provisions of section 6, she shall forfeit her claim to the payment of the maternity benefit to which she is entitled.

Penalty for contravention of the Act by an employer.

10. If any employer contravenes the provisions of this Act he shall, on conviction, be liable to a fine which may extend to five hundred rupees.

Penalty for contravention of the Act by a woman.

11. If any woman works in any factory within four weeks of the date of her delivery, she shall be liable, on conviction, to a fine not exceeding ten rupees.

Cognizance of offences.

12. (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Inspector of Factories.

(2) No court inferior to that of a Magistrate of the First Class shall try any offence against this Act or any rules thereunder.

Limitation of prosecution.

13. No court shall take cognizance of any offence against this Act or any rule thereunder unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

[1]**13-A.** [1][* * *]

Rules.

14. (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(*a*) the preparation and maintenance of a muster roll or register or a combined muster roll and register and the particulars to be entered in such muster roll, register or combined muster roll and register or in the register kept or deemed to have been kept under [2][section 62 of the Factories Act, 1948 (Central Act LXIII of 1948).]

(*b*) the inspection of factories for the purposes of this Act by Inspectors of Factories;

(*c*) the exercise of powers and the performance of duties by Inspectors of Factories for the purposes of this Act;

(*d*) the method of payment of maternity benefit in so far as provision has not been made in this Act; and

(*e*) any other matter for which no provision has been made in this Act and for which provision is, in the opinion of the Government, necessary.

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1. Repealed by the Part B States (Laws) Act, 1951, (Central Act No. III of 1951.)
2. Substituted by Act 23 of 1954.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The making of rules under this section shall be subject to the condition of previous publication.

Copies of Act and rules thereunder to be exhibited.

15. An abstract of the provisions of this Act and the rules thereunder in the vernacular of the workers shall be exhibited in a conspicuous manner by the employer in every part of a factory in which women are employed.